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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,510	07/11/2003	Klaus Kubik	38800/629	6600

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NEW YORK, NY 10004

EXAMINER

FRANK, RODNEY T

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/618,510

Applicant(s)

KUBIK ET AL.

Examiner

Rodney T. Frank

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Braun et al. (U.S. Patent Number 4,077,340; hereinafter referred to as Braun.) Braun discloses a workpiece prepuncturing device for use with a sewing machine having drive means for reciprocating a needle and means for feeding a workpiece into association with the needle to sew a stitch comprises a perforating tool, which is located at a spaced location from the needle, which is comparable to a multiple of the stitch length. The perforating tool cooperates with a counter tool, which is mounted on the opposite side of the workpiece and is movable toward and away from the workpiece in timed relationship to the speed of the feed and the reciprocation of the perforating tool. The counter tool is supported in a base portion of the sewing machine by an elastic suspension, and it is in drive connection with the main shaft of the machine which operates the needle and the feed for the workpiece (Please see the abstract).

In reference to the claims, Braun discloses, and shows in figures 1-3:

1. A device for processing a material web, comprising:

a machine base member (1), and a sonotrode supported in a housing (23; see column 6 lines 25-34), wherein the housing is joined to the machine base member by at least one flexible element (20).

2. The device as recited in claim 1, wherein the flexible element is made of a non-conducting material (see column 4 lines 40-46).

3. The device as recited in claim 2, further comprising a metallic counter-element (40), which is positioned to form a processing gap between a surface of the counter-element and a processing end of the sonotrode.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Shoh (U.S. Patent Number 3,863,826). Shoh discloses a sonic or ultrasonic apparatus comprises electroacoustic transducer means for providing vibratory energy applied to a workpiece to cause welding for instance. The transducer means is coupled by a set of leaf spring members to a stationary support. Reciprocating motion of the transducer means toward and away from the workpiece is accomplished by bending the leaf spring members using a motive means, such as a pneumatically driven piston. The leaf spring members yield in the direction of this reciprocating motion, which substantially coincides, with the axis of propagation of the vibratory energy, but exhibit rigidity along the direction normal to such axis (Please see abstract).

In reference to the claims, Shoh discloses, and shows in figures 1-3 and 8:

1. A device for processing a material web, comprising:

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a machine base member (10), and a sonotrode supported in a housing (16; see column 2 lines 58-60), wherein the housing is joined to the machine base member by at least one flexible element (46).

2. The device as recited in claim 1, wherein the flexible element is made of a non-conducting material (see column 3 line 43).

3. The device as recited in claim 2, further comprising a metallic counter-element (18), which is positioned to form a processing gap between a surface of the counter-element and a processing end of the sonotrode.

4. A device for processing a material web, comprising:

a machine base member (10), and a sonotrode supported in a housing (16; see column 2 lines 58-60), wherein the housing is joined to the machine base member by at least one flexible element, the flexible element being a flat spring (46).

5. The device of claim 4 wherein the flat spring is preloaded in a normal position in the housing.

***Allowable Subject Matter***

Claims 7-9 are allowed.

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: A device for processing a material web wherein at least one strain gauge is

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mounted on a flexible element for ascertaining at least one of a bending load and a stretching load of the flexible element, in combination with the other elements of independent claim 7 is not disclosed nor deemed obvious in view of the prior art of record. The prior art does not disclose the use of a strain gauge with the noted sonotorde /housing coupling arrangement.

Claim 6 is objected to but deemed novel since the prior art does not teach the mounting arrangement whereby two flat springs are pre-loaded by bend loading deflection, where one spring is deflected in the opposite direction of the other.

### ***Response to Arguments***

Applicant's arguments filed 07 February 2005 have been fully considered but they are not persuasive. The applicant argued the rejection of claims 1-3 in view of Braun. The applicant stated that the 102 (b) rejection was invalid since each and every element is not disclosed. Specifically, on page 6 of the applicant's remarks, the applicant states:

"The Office Action states that .... there is no disclosure or suggestion in Braun et al. that the transmission line 20 is flexible, but rather the transmission line 20 is non-flexible so as to perform the function of transmitting the longitudinal oscillations from the generator to the upper perforating tool 23.

The examiner respectfully disagrees for the following reasons. The first reason is that the Braun reference discloses that the transmission line is made from monel wire in column 4 lines 43-46. A common known use for monel wire is fishing line, which is inherently flexible by nature. For at least this reason, the examiner feels that the

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disclosure is sufficient, but the applicant argues specifically that there is no suggestion or disclosure in Braun that would support the monel wire to be flexible. The examiner would therefore like to point the applicant to claim 7 of Braun, whereby he explicitly states that the transmission line is flexible. Therefore, the applicant's arguments are not persuasive and the 102 (b) rejection of claims 1-3 in view of the Braun reference is maintained.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner has cited various references that are deemed relevant to the general state of the art of the present invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RTF  
March 30, 2005

  
HEZRON WILLIAMS  
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